D.B. CIVIL SPECIAL APPEAL NO.19/2001
The New india Assurance company Ltd. Vs. Smt. Indra & Ors.

Date : 02.03.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE CHATRA RAM JAT

Mr. R.K. Mehta for the appellant.
Mr. M.R. Singhvi for the respondents.

Heard learned counsel for the parties. The preparation of paper book is dispensed with.

The three Civil Misc. Appeals No.198/99, 199/99 and 197/99 arising out of the same accident which took place on 3.4.1995 were decided by learned Single Judge on 4th Dec., 2000. As a result of the said accident, three persons died and other persons received injuries. The three appeals arose out of the claim petition filed by the legal representatives of the deceased persons. The deceased were travelling in the public goods vehicle. The insurance company was held liable for indemnifying the insured, owner of the truck. The contention of the insurance company was that the

vehicle being goods vehicle and passengers could not be carried in the said vehicle as provided in the statute, the insurance company was not liable to pay the compensation in respect thereof. As on the date the appeals were decided, the judgment of the Supreme Court in New India Assurance Vs. Satpal Singh (2000 ACJ-1) was effective precedent binding on our court, according to which the award passed by the Motor Accident Tribunal against the insurance company was wholly justified.

Subsequent thereto the Satpal Singh's case was not followed by the Supreme Court in New India Assurance Co. Ltd. V. Asha Rani, (2003) 2 SCC 223. The matter was referred to Larger Bench which came to be decided by the Supreme Court in National Insurance Co. Ltd. Vs. Baljit Kaur and others (2004) 2 SCC 1. As a result of the aforesaid decisions, Satpal Singh's case was over ruled. However, the Supreme Court considering the fact that law is clarified only through the judgment in Baljit Kaur, made the effect of the order prospective. The Court said that :-

> "The upshot of the aforementioned discussions is that instead and in place of the insurer the owner of the vehicle shall be liable to satisfy the decree. The question, however, would be as to whether keeping in view the fact that the law was not clear so long such a direction would be fair and equitable. We do not think so. We, therefore, clarify the legal position which shall have prospective effect."

We are informed by the learned counsel for the appellant that the appeals in other two cases arising out of the same judgment have also been dismissed by the Supreme Court.

In that view this appeal should have the same fate and is hereby dismissed. No order as to costs.

[CHATRA RAM JAT], J. [RAJESH BALIA], J.

babulal/